

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

William J. Whitsitt,

No. C 09-2387 JL

Plaintiff,

v.

**ORDER DENYING LEAVE TO FILE
MOTIONS FOR RECONSIDERATION
(Docket #s 45, 46, 47, 48)**

Judge Hugh Walker, et al.,

Defendants.

I. Introduction

This Court received Plaintiff's Objections to the Court's rulings dismissing his complaint without leave to amend as to Defendants the Hon. Hugh Walker, the County of Alameda, the City of Dublin, the Alameda County District Attorney's Office, and Ronda Theisen.

II. Legal Standard for granting leave to file a motion for reconsideration

The Court interprets Plaintiff's Objections as motions for leave to file a motion for reconsideration of the Court's orders of dismissal filed at Docket #s 40, 43 and 44.

Civil Local Rule 7-9, at subsections (a) and (b) provides that

"[B]efore the entry of a judgment adjudicating all of the claims and the rights and liabilities of all the parties in a case, any party may make a motion before a Judge requesting that the Judge grant the party leave to file a motion for reconsideration of any interlocutory order made by that Judge on any ground set forth in Civil L.R. 7-9 (b). No party may notice a motion for reconsideration without first obtaining leave of Court to file the motion.

In addition, the Local Rule requires that the moving party must specifically show:

- (1) That at the time of the motion for leave, a material difference in fact or law exists from that which was presented to the Court before entry of the interlocutory order for which reconsideration is sought. The party also must show that in the exercise of reasonable diligence the party applying for reconsideration did not know such fact or law at the time of the interlocutory order; or
- (2) The emergence of new material facts or a change of law occurring after the time of such order; or
- (3) A manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court before such interlocutory order.
- (c) No motion for leave to file a motion for reconsideration may repeat any oral or written argument made by the applying party in support of or in opposition to the interlocutory order which the party now seeks to have reconsidered. Any party who violates this restriction shall be subject to appropriate sanctions.
- (d) Unless otherwise ordered by the assigned Judge, no response need be filed and no hearing will be held concerning a motion for leave to file a motion to reconsider. If the judge decides to order the filing of additional papers or that the matter warrants a hearing, the judge will fix an appropriate schedule.

This Court finds that no response or further briefing is necessary to decide this motion.

A court has inherent power to reconsider and modify its interlocutory orders prior to the entry of judgment. *Smith v. Massachusetts*, 543 U.S. 462, 475 (2005).

However, reconsideration is an “extraordinary remedy, to be used sparingly.” A motion for reconsideration will be denied “unless the District Court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law.” *Kona Enterprises, Inc. V. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000).

III. Analysis and Conclusion


In this case, Plaintiff fails to present newly discovered evidence or an intervening change in the law, so the Court assumes he is arguing that the Court committed clear error in its rulings. Plaintiff repeats his same arguments with multiple citations to inapposite legal authorities and invocations of divine power which he believes to be on his side.

1 This Court carefully reexamined its rulings in light of Plaintiff's Objections and
2 reaches the same conclusion as before: because Plaintiff fails to allege facts that entitle
3 him to relief, his claims against Defendants must be dismissed without leave to amend.
4 Amendment would be futile in this case because the deficiencies in Plaintiff's complaint
5 could not be cured by granting him the opportunity to allege additional facts.

6 Accordingly, leave to file a motion for reconsideration is hereby denied.

7 IT IS SO ORDERED.

8 DATED: December 21, 2009

9
10 
11 _____
12 James Larson
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

G:\JLALL\CHAMBERS\CASES\CIVIL\09-2387\Deny Reconsideration.wpd